



United States Department of State

Washington, D.C. 20520

MAY 16 2012

Case No.: F-2011-27678

Mr. Michael Morisy
MuckRock News
DEPT MR 987
P.O. Box 55819
Boston MA 02205-5819

Dear Mr. Morisy:

I refer to your letter dated December 27, 2011, requesting under the provisions of the Freedom of Information Act (Title 5 USC Section 552) the release of certain records maintained by the Department of State.

The Department of State has a number of record systems. Its Central Foreign Policy Record File is an automated centralized records system, containing substantive foreign policy documents. Additionally, offices within the Department and Foreign Service posts abroad maintain files specific to their operations. Information about the Department and the mission and functions of its individual bureaus and offices, as well as its posts abroad, may be found at our website, www.state.gov or in the U.S. Government Manual published by the Government Printing Office and available at most public libraries.

Based on the subject matter of your request, we searched the record systems most likely to maintain responsive records: the Central Foreign Policy Records, and the Bureau of Legislative Affairs. After a thorough search of these systems conducted by professional employees familiar with their contents and organization, no records responsive to your request were located.

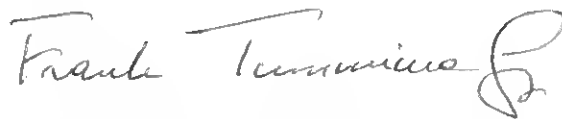
I regret that the Department's response to your request is not more positive. Please direct questions concerning the processing of your request to: Office of Information Programs and Services, A/GIS/IPS, SA-2, Room 8100, U.S. Department of State, Washington, D.C. 20522-8100, or telephone (202)261-8484.

The D.C. Circuit Court of Appeals, in Oglesby v. Department of the Army, 920 F.2d 57 (D.C. Cir. 1990), ruled that a "no record" response constitutes an adverse determination, thereby requiring an agency to give appeal rights to the requester. Our determination that the Department does not have any records responsive to your request may be appealed within 60 days of the date of this letter. Although I believe that our search effort has been thorough and complete, I want to be sure that you are aware of this court decision.

Since no fee has been assessed in this case, your request for a fee waiver is moot.

Appeals should be addressed to: Chairman, Appeals Review Panel, c/o Appeals Officer, A/GIS/IPS/PP/LC, Room 8100, SA-2, U.S. Department of State, Washington, D.C. 20522-8100. A copy of the Department's appeal procedures is enclosed. Please refer to the case control number shown above in all correspondence concerning this case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sheryl L. Walter".

Sheryl L. Walter, Director
Office of Information Programs and Services

Enclosure:
As stated.

Rules and Regulations

Subpart F – Appeal Procedures

§171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

- (a) *Right of administrative appeal.* Except for records that have been reviewed and withheld within the past two years or are the subject of litigation, any requester whose request for access to records, declassification of records, amendment of records, accounting of disclosure of records, or any authorized holder of classified information whose classification challenge has been denied, has a right to appeal the denial to the Department's Appeals Review Panel. This appeal right includes the right to appeal the determination by the Department that no records responsive to an access request exist in Department files. Privacy Act appeals may be made only by the individual to whom the records pertain.
- (b) *Form of appeal.* There is no required form for an appeal. However, it is essential that the appeal contain a clear statement of the decision or determination by the Department being appealed. When possible, the appeal should include argumentation and documentation to support the appeal and to contest the bases for denial cited by the Department. The appeal should be sent to: Chairman, Appeals Review Panel, c/o Appeals Officer, A/RPS/IPS/PP/LC, U.S. Department of State, SA-2, Room 8100, Washington, DC 20522-8100.
- (c) *Time limits.* The appeal should be received within 60 days of the date of receipt by the requester of the Department's denial. The time limit for response to an appeal begins to run on the day that the appeal is received. The time limit (excluding Saturdays, Sundays, and legal public holidays) for agency decision on an administrative appeal is 20 days under the FOIA (which may be extended for up to an additional 10 days in unusual circumstances) and 30 days under the Privacy Act (which the Panel may extend an additional 30 days for good cause shown). The Panel shall decide mandatory declassification review appeals as promptly as possible.
- (d) *Notification to appellant.* The Chairman of the Appeals Review Panel shall notify the appellant in writing of the Panel's decision on the appeal. When the decision is to uphold the denial, the Chairman shall include in his notification the reasons therefore. The appellant shall be advised that the decision of the Panel represents the final decision of the Department and of the right to seek judicial review of the Panel's decision, when applicable. In mandatory declassification review appeals, the Panel shall advise the requester of the right to appeal the decision to the Interagency Security Classification Appeals Panel under §3.5(d) of E.O. 12958.